

EXHIBIT 1

Julie E. Schwartz, Bar No. 260624
JSchwartz@perkinscoie.com
PERKINS COIE LLP
3150 Porter Drive
Palo Alto, CA 94304-1212
Telephone: 650.838.4300
Facsimile: 650.838.4350

James R. McCullagh, admitted *pro hac vice*
JMcCullagh@perkinscoie.com
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101-3099
Telephone: 206.359.8000
Facsimile: 206.359.9000

Attorneys for Defendant
Facebook, Inc.

FILED
SAN MATEO COUNTY

OCT 25 2016

Clerk of the Superior Court

By

DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

SIX4THREE, LLC, a Delaware limited
liability company,

Plaintiff,

v.

FACEBOOK, INC., a Delaware
corporation and DOES 1-50, inclusive,

Defendant.

Case No. CIV533328

**STIPULATED [PROPOSED]
PROTECTIVE ORDER**

In order to protect confidential information obtained by the parties in connection with this case, the parties, by and through their respective undersigned counsel and subject to the approval of the Court, hereby agree as follows:

Part One: Use Of Confidential Materials In Discovery

1. Any party or non-party may designate as Confidential Information (by stamping the relevant page or as otherwise set forth herein) any document or response to discovery which that party or non-party considers in good faith to contain information involving trade secrets, or

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STIPULATED [PROPOSED] PROTECTIVE ORDER
CASE NO. CIV533328

1 confidential business, financial, or personal information, including personal financial information
2 about any individual or entity; information regarding any individual's or entity's banking
3 relationship with any banking institution, including information regarding financial transactions
4 or financial accounts, and any information regarding any individual or entity that is not otherwise
5 available to the public, subject to protection under Rules 2.550, 2.551, 2.580, 2.585, 8.160, and
6 8.490 of the California Rules of Court or under other provisions of California law. Any party or
7 non-party may designate as Highly Confidential Information (by stamping the relevant page or as
8 otherwise set forth herein) any document or response to discovery which that party or non-party
9 considers in good faith to contain information involving highly sensitive trade secrets or
10 confidential business, financial, or personal information, the disclosure of which would result in
11 the disclosure of trade secrets or other highly sensitive research, development, production,
12 personnel, commercial, market, financial, or business information, or highly sensitive personal
13 information, subject to protection under Rules 2.550, 2.551, 2.580, 2.585, 8.160, and 8.490 of the
14 California Rules of Court or under other provisions of California law. Where a document or
15 response consists of more than one page, the first page and each page on which confidential
16 information appears shall be so designated.

17 2. A party or non-party may designate information disclosed during a deposition or in
18 response to written discovery as Confidential Information or Highly Confidential Information by
19 so indicating in said responses or on the record at the deposition and requesting the preparation of
20 a separate transcript of such material. In addition, a party or non-party may designate in writing,
21 within thirty (30) days after receipt of said responses or of the deposition transcript for which the
22 designation is proposed, that specific pages of the transcript and/or specific responses be treated
23 as Confidential Information or Highly Confidential Information. Any other party may object to
24 such proposal, in writing or on the record. Upon such objection, the parties shall follow the
25 procedures described in Paragraph 9 below. Until the thirty (30) day period for designation has
26 lapsed, the entirety of each deposition transcript shall be treated as Confidential Information.
27 After the thirty (30) day period for designation has lapsed, any documents or information
28 designated pursuant to the procedure set forth in this paragraph shall be treated according to the

1 designation until the matter is resolved according to the procedures described in Paragraph 9
2 below, and counsel for all parties shall be responsible for marking all previously unmarked copies
3 of the designated material in their possession or control with the specified designation. A party
4 that makes original documents or materials available for inspection need not designate them as
5 Confidential Information or Highly Confidential Information until after the inspecting party has
6 indicated which materials it would like copied and produced. During the inspection and before the
7 designation and copying, all of the material made available for inspection shall be considered
8 Highly Confidential Information.

9 3. All Confidential Information or Highly Confidential Information produced or
10 exchanged in the course of this case (not including information that is publicly available) shall be
11 used by the party or parties to whom the information is produced solely for the purpose of this
12 case. Confidential Information or Highly Confidential Information shall not be used for any
13 commercial competitive, personal, or other purpose. Confidential Information or Highly
14 Confidential Information must be stored and maintained by a receiving party at a location and in a
15 secure manner that ensures that access is limited to the persons authorized under this Stipulated
16 Protective Order. The protections conferred by this Stipulated Protective Order cover not only
17 the Confidential Information or Highly Confidential Information produced or exchanged in this
18 case, but also (1) any information copied or extracted from or reflecting the Confidential
19 Information or Highly Confidential Information; (2) all copies, excerpts, summaries, or
20 compilations of Confidential Information or Highly Confidential Information; and (3) any
21 testimony, conversations, or presentations by parties or their counsel that might reveal
22 Confidential Information or Highly Confidential Information. However, the protections
23 conferred by this Stipulated Protective Order do not cover the following information: (a) any
24 information that is in the public domain at the time of disclosure to a receiving party or becomes
25 part of the public domain after its disclosure to a receiving party as a result of publication not
26 involving a violation of this Stipulated Protective Order, including becoming part of the public
27 record through trial or otherwise; and (b) any information known to the receiving party prior to
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1 the disclosure or obtained by the receiving party after the disclosure from a source who obtained
 2 the information lawfully and under no obligation of confidentiality to the designating party.

3 4. Except with the prior written consent of the other parties, or upon prior order of
 4 this Court obtained upon notice to opposing counsel, Confidential Information shall not be
 5 disclosed to any person other than:

- 6 (a) counsel for the respective parties to this litigation, including in-house
 7 counsel and co-counsel retained for this litigation;
- 8 (b) employees of such counsel;
- 9 (c) individual parties or officers or employees of a party, to the extent deemed
 10 necessary by counsel for the prosecution or defense of this litigation;
- 11 (d) consultants or expert witnesses retained for the prosecution or defense of
 12 this litigation, provided that each such person shall execute a copy of the
 13 Certification annexed to this Order (which shall be retained by counsel to
 14 the party so disclosing the Confidential Information and made available
 15 for inspection by opposing counsel during the pendency or after the
 16 termination of the action only upon good cause shown and upon order of
 17 the Court) before being shown or given any Confidential Information, and
 18 provided that if the party chooses a consultant or expert employed by the
 19 opposing party or one of its competitors, the party shall notify the
 20 opposing party, or designating non-party, before disclosing any
 21 Confidential Information to that individual and shall give the opposing
 22 party an opportunity to move for a protective order preventing or limiting
 23 such disclosure;
- 24 (e) any authors or recipients of the Confidential Information or a custodian;
- 25 (f) the Court, court personnel, and court reporters; and
- 26 (g) witnesses (other than persons described in Paragraph 4(e)). A witness shall
 27 sign the Certification before being shown a confidential document.
 28 Confidential Information may be disclosed to a witness who will not sign

1 the Certification only in a deposition at which the party who designated
2 the Confidential Information is represented or has been given notice that
3 Confidential Information produced by the party may be used. At the
4 request of any party, the portion of the deposition transcript involving the
5 Confidential Information shall be designated "Confidential" pursuant to
6 Paragraph 2 above. Witnesses shown Confidential Information shall not be
7 allowed to retain copies.

8 5. Except with the prior written consent of the other parties, or upon prior order of
9 this Court obtained after notice to opposing counsel, Highly Confidential Information shall be
10 treated in the same manner as Confidential Information pursuant to Paragraph 4 above, except
11 that it shall not be disclosed to individual parties or directors, officers or employees of a party, or
12 to witnesses (other than persons described in Paragraph 4(a) or 4(e)).

13 6. Any persons receiving Confidential Information or Highly Confidential
14 Information shall not reveal or discuss such information to or with any person who is not entitled
15 to receive such information, except as set forth herein. If a party or any of its representatives,
16 including counsel, inadvertently discloses any Confidential Information or Highly Confidential
17 Information to persons who are not authorized to use or possess such material, the party shall
18 provide immediate written notice of the disclosure to the party whose material was inadvertently
19 disclosed. If a party has actual knowledge that Confidential Information or Highly Confidential
20 Information is being used or possessed by a person not authorized to use or possess that material,
21 regardless of how the material was disclosed or obtained by such person, the party shall provide
22 immediate written notice of the unauthorized use or possession to the party whose material is
23 being used or possessed. No party shall have an affirmative obligation to inform itself regarding
24 such possible use or possession.

25 7. In connection with discovery proceedings as to which a party submits Confidential
26 Information or Highly Confidential Information, all documents and chamber copies containing
27 Confidential Information or Highly Confidential Information which are submitted to the Court
28 shall be filed with the Court in sealed envelopes or other appropriate sealed containers. On the

1 DATED: _____, 2016

BIRNBAUM & GODKIN, LLP

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3 By: _____
David Godkin

4 Attorneys for Plaintiff
5 SIX4THREE, LLC

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7 IT IS SO ORDERED.

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9 DATED: 10/24, 2016

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JUDGE OF THE SUPERIOR COURT